

SUBCOMMITTEE: SUBCOMMITTEE #3

SENATE BILL NO. 1420

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Senator Sturtevant)

A BILL to amend and reenact §§ 4.1-100, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; alcoholic beverage licenses.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing

alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only, custom made apparel and that offers a membership program to customers. Such establishment shall be a permanent structure where measurements and fittings are performed on-site but

54 apparel is produced offsite and delivered directly to the customer. Such establishment shall have facilities
55 to properly secure any stock of alcoholic beverages.

56 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

57 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43
58 ounces.

59 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats
60 for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to
61 33 U.S.C. § 59ii.

62 "Club" means any private nonprofit corporation or association which is the owner, lessee, or
63 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other
64 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also
65 means the establishment so operated. A corporation or association shall not lose its status as a club because
66 of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter
67 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic
68 beverages are served or consumed in the room where such charitable gaming is being conducted while
69 such gaming is being conducted and that no alcoholic beverages are made available upon the premises to
70 any person who is neither a member nor a bona fide guest of a member.

71 Any such corporation or association which has been declared exempt from federal and state income
72 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit
73 corporation or association.

74 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum
75 of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain
76 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a
77 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial
78 owners' association that is responsible for the management, maintenance, and operation of the common
79 areas thereof.

80 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding
81 alcoholic beverages.

82 "Contract winemaking facility" means the premises of a licensed winery or farm winery that
83 obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and
84 crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an
85 agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract
86 winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm
87 winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine.
88 The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of
89 payment have not been fulfilled in accordance with the contract. The contract winemaking facility may
90 charge the farm winery for its services.

91 "Convenience grocery store" means an establishment which (i) has an enclosed room in a
92 permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible
93 items intended for human consumption consisting of a variety of such items of the types normally sold in
94 grocery stores.

95 "Coworking establishment" means a facility that has at least 100 members, a majority of whom
96 are 21 years of age or older, to whom it offers shared office space and related amenities, including desks,
97 conference rooms, Internet access, printers, copiers, telephones, and fax machines.

98 "Day spa" means any commercial establishment that offers to the public both massage therapy,
99 performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services
100 performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

101 "Designated area" means a room or area approved by the Board for on-premises licensees.

102 "Dining area" means a public room or area in which meals are regularly served.

103 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
104 manufactured, sold, or used.

105 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land
106 zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for

107 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
108 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
109 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
110 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
111 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
112 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
113 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
114 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
115 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate
116 and apart from all other facilities of the institution, and (d) such farm winery is operated in strict
117 conformance with the requirements of this clause (ii) and Board regulations. As used in this definition,
118 the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the
119 purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
120 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
121 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land
122 zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise
123 permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does
124 not include land zoned "residential conservation." Except for the limitation on land zoned "residential
125 conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local
126 zoning authority.

127 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs,
128 specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral
129 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
130 where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine
131 or beer. Such shop may be located (i) on the premises or grounds of a government registered national,
132 state or local historic building or site or (ii) within the premises of a museum. The Board shall consider

133 the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered
134 a gift shop.

135 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer
136 may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
137 persons facilities for manufacturing, fermenting and bottling such wine or beer.

138 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
139 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
140 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
141 furnished to persons.

142 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

143 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3)
144 of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
145 showing motion pictures to the public.

146 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
147 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
148 four or more bedrooms. It shall also mean the person who operates such hotel.

149 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
150 pursuant to this title.

151 "Internet beer retailer" means a person who owns or operates an establishment with adequate
152 inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders
153 are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

154 "Internet wine retailer" means a person who owns or operates an establishment with adequate
155 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders
156 are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

157 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
158 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

159 "Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a bespoke clothier establishment" means a person who maintains a membership in the bespoke clothier establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment. The minimum membership fee shall be not less than \$25 for any term of membership.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall

also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Member of a coworking establishment" means a person who maintains a membership in the coworking establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the coworking establishment. "Member of a coworking establishment" does not include an employee or any person with an ownership interest in the coworking establishment.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

213 "Public place" means any place, building, or conveyance to which the public has, or is permitted
214 to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
215 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
216 highway, street, or lane.

217 ~~The term shall~~ "Public place" does not include (i) hotel or restaurant dining areas or ballrooms
218 while in use for private meetings or private parties limited in attendance to members and guests of a
219 particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings
220 or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings
221 or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part
222 of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public
223 and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the
224 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats
225 which are not licensed by the Board and on which alcoholic beverages are not sold.

226 "Residence" means any building or part of a building or structure where a person resides, but does
227 not include any part of a building which is not actually and exclusively used as a private residence, nor
228 any part of a hotel or club other than a private guest room thereof.

229 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational
230 facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable
231 corporation with voluntary membership which, as its primary function, makes available golf, ski and other
232 recreational facilities both to its members and the general public. The hotel or corporation shall have a
233 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority
234 may consider the purpose, characteristics, and operation of the applicant establishment in determining
235 whether it shall be considered as a resort complex. All other pertinent qualifications established by the
236 Board for a hotel operation shall be observed by such licensee.

237 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant
238 license, any establishment provided with special space and accommodation, where, in consideration of
239 payment, meals or other foods prepared on the premises are regularly sold.

240 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
241 license, an established place of business (i) where meals with substantial entrees are regularly sold and
242 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals
243 for consumption at tables in dining areas on the premises, and includes establishments specializing in full
244 course meals with a single substantial entree.

245 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for
246 sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
247 beverages.

248 "Sangria" means a drink consisting of red or white wine mixed with some combination of
249 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
250 similar spirits.

251 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom
252 the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

253 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
254 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

255 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable
256 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin,
257 or any one or more of the last four named ingredients; but shall not include any such liquors completely
258 denatured in accordance with formulas approved by the United States government.

259 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural
260 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either
261 with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no
262 product of distillation. ~~The term~~ "Wine" includes any wine to which wine spirits have been added, as
263 provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do
264 not exceed an alcohol content of 21 percent by volume.

265 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume,
266 and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting

of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-206. Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

294 3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic
295 beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with
296 Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale
297 outside the Commonwealth.

298 4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical
299 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired
300 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests
301 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall
302 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use
303 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency
304 station or both, regularly occupied as such and recognized by the governing body of the county, city, or
305 town in which it is located. Under conditions as specified by Board regulation, such premises may be other
306 than a volunteer fire or volunteer emergency medical services agency station, provided such other
307 premises are occupied and under the control of the volunteer fire department or volunteer emergency
308 medical services agency while the privileges of its license are being exercised.

309 5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages
310 in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is
311 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
312 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
313 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
314 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
315 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes
316 outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one
317 means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas
318 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas
319 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof

during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or

373 otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this
374 license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

375 15. Commercial lifestyle center license, which may be issued only to a commercial owners'
376 association governing a commercial lifestyle center, which shall authorize any retail on-premises
377 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
378 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of
379 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
380 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
381 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such
382 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises
383 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and
384 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the
385 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic
386 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The
387 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed
388 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide
389 adequate security for the licensed premises to ensure compliance with the applicable provisions of this
390 title and Board regulations.

391 16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed
392 premises for off-premises consumption confectionery that contains five percent or less alcohol by volume.
393 Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is
394 sold.

395 17. Coworking establishment license, which shall authorize the licensee to (i) permit the
396 consumption of lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the
397 licensee by any member and up to two guests of each member, provided that such member and guests are
398 persons who may lawfully consume alcohol and an employee of the coworking establishment is present,
399 and (ii) serve wine and beer on the premises of the licensee between 4:00 p.m. and midnight to any member

and up to two guests of each member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the coworking establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the coworking establishment, regularly occupied and utilized as such.

18. Bespoke clothier establishment license, which shall authorize the licensee to serve wine, beer, or mixed beverages for on-premises consumption upon the licensed premises approved by the Board to any member; however, the licensee shall not give more than (i) two five-ounce glasses of wine, (ii) two 12-ounce glasses of beer, or (iii) two glasses of mixed beverages, provided that each glass of mixed beverages contains no more than two ounces of spirits, to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine, beer, or mixed beverages served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the bespoke clothier establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the bespoke clothier establishment, regularly occupied and utilized as such.

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so

long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

§ 4.1-231. Taxes on state licenses.

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;

b. Fruit distiller's license, \$3,725;

c. Banquet facility license or museum license, \$190;

d. Bed and breakfast establishment license, \$35;

e. Tasting license, \$40 per license granted;

f. Equine sporting event license, \$130;

g. Motor car sporting event facility license, \$130;

h. Day spa license, \$100;

i. Delivery permit, \$120 if the permittee holds no other license under this title;

j. Meal-assembly kitchen license, \$100;

k. Canal boat operator license, \$100;

l. Annual arts venue event license, \$100;

m. Art instruction studio license, \$100;

n. Commercial lifestyle center license, \$300;~~and~~

o. Confectionery license, \$100;

p. Coworking establishment license, \$500; and

q. Bespoke clothier establishment license, \$100.

2. Wine licenses. For each:

- 454 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which
455 the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
- 456 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less
457 per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
458 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
459 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of
460 wine per year;
- 461 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or
462 more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied
463 by the number of separate locations covered by the license;
- 464 c. Wine importer's license, \$370;
- 465 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
- 466 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
467 which shall include a delivery permit;
- 468 f. Wine shipper's license, \$230; and
- 469 g. Internet wine retailer license, \$150.
- 470 3. Beer licenses. For each:
- 471 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
472 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
473 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
- 474 b. Bottler's license, \$1,430;
- 475 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
476 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer
477 a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- 478 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall
479 be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
480 license;

- 481 d. Beer importer's license, \$370;
- 482 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
483 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
484 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars
485 operated daily in the Commonwealth;
- 486 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- 487 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
488 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery
489 permit;
- 490 h. Beer shipper's license, \$230;
- 491 i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
- 492 j. Internet beer retailer license, \$150.
- 493 4. Wine and beer licenses. For each:
- 494 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
495 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier
496 of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet
497 cars or club cars operated daily in the Commonwealth, and for each such license granted to a common
498 carrier of passengers by airplane, \$750;
- 499 b. Retail on-premises wine and beer license to a hospital, \$145;
- 500 c. Retail on-premises wine and beer license to a historic cinema house, \$200;
- 501 d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and
502 convenience grocery store license, \$230, which shall include a delivery permit;
- 503 e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
504 include a delivery permit;
- 505 f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by
506 the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- 507 g. Gourmet brewing shop license, \$230;

- 508 h. Wine and beer shipper's license, \$230;
- 509 i. Annual banquet license, \$150;
- 510 j. Fulfillment warehouse license, \$120;
- 511 k. Marketing portal license, \$150; and
- 512 l. Gourmet oyster house license, \$230.
- 513 5. Mixed beverage licenses. For each:
- 514 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
- 515 located on premises of and operated by hotels or motels, or other persons:
- 516 (i) With a seating capacity at tables for up to 100 persons, \$560;
- 517 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- 518 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 519 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
- 520 private, nonprofit clubs:
- 521 (i) With an average yearly membership of not more than 200 resident members, \$750;
- 522 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
- 523 \$1,860; and
- 524 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 525 c. Mixed beverage caterer's license, \$1,860;
- 526 d. Mixed beverage limited caterer's license, \$500;
- 527 e. Mixed beverage special events license, \$45 for each day of each event;
- 528 f. Mixed beverage club events licenses, \$35 for each day of each event;
- 529 g. Annual mixed beverage special events license, \$560;
- 530 h. Mixed beverage carrier license:
- 531 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in
- 532 the Commonwealth by a common carrier of passengers by train;
- 533 (ii) \$560 for each common carrier of passengers by boat;
- 534 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

i. Annual mixed beverage amphitheater license, \$560;

j. Annual mixed beverage motor sports race track license, \$560;

k. Annual mixed beverage banquet license, \$500;

l. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$460;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;

(iii) With a seating capacity at tables for more than 150 persons, \$1,330;

m. Annual mixed beverage motor sports facility license, \$560; and

n. Annual mixed beverage performing arts facility license, \$560.

6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

561 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than
562 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the
563 nearest cent, multiplied by the number of months in the license period, and then increased by five percent.
564 Such tax shall not be refundable, except as provided in § 4.1-232.

565 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
566 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
567 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
568 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
569 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
570 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the
571 liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale
572 merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be
573 disregarded.

574 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license
575 purchased in person from the Board if such license is available for purchase online.

576 **§ 4.1-233. Taxes on local licenses.**

577 A. In addition to the state license taxes, the annual local license taxes which may be collected shall
578 not exceed the following sums:

579 1. Alcoholic beverages. — For each:

580 a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured
581 during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local
582 license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or
583 spirits, or both, during such license year;

584 b. Fruit distiller's license, \$1,500;

585 c. Bed and breakfast establishment license, \$40;

586 d. Museum license, \$10;

587 e. Tasting license, \$5 per license granted;

- 588 f. Equine sporting event license, \$10;
589 g. Day spa license, \$20;
590 h. Motor car sporting event facility license, \$10;
591 i. Meal-assembly kitchen license, \$20;
592 j. Canal boat operator license, \$20;
593 k. Annual arts venue event license, \$20;
594 l. Art instruction studio license, \$20;
595 m. Commercial lifestyle center license, \$60; ~~and~~
596 n. Confectionery license, \$20;
597 o. Coworking establishment license, \$50; and
598 p. Bespoke clothier establishment license, \$20.
599 2. Beer. — For each:
600 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
601 license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the
602 license is granted, \$1,000;
603 b. Bottler's license, \$500;
604 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
605 d. Retail on-premises beer license for a hotel, restaurant, club or other person and for each retail
606 off-premises beer license in a city, \$100, and in a county or town, \$25; and
607 e. Beer shipper's license, \$10.
608 3. Wine. — For each:
609 a. Winery license, \$50;
610 b. Wholesale wine license, \$50;
611 c. Farm winery license, \$50; and
612 d. Wine shipper's license, \$10.
613 4. Wine and beer. — For each:

- 614 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-
615 premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store
616 license, in a city, \$150, and in a county or town, \$37.50;
- 617 b. Hospital license, \$10;
- 618 c. Historic cinema house license, \$20;
- 619 d. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
620 pursuant to subsection A of § 4.1-215, which shall be \$20 per license;
- 621 e. Gourmet brewing shop license, \$150;
- 622 f. Wine and beer shipper's license, \$10;
- 623 g. Annual banquet license, \$15; and
- 624 h. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
- 625 5. Mixed beverages. — For each:
- 626 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
627 by hotels or motels, or other persons:
- 628 (i) With a seating capacity at tables for up to 100 persons, \$200;
- 629 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
- 630 (iii) With a seating capacity at tables for more than 150 persons, \$500.
- 631 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
- 632 c. Mixed beverage caterer's license, \$500;
- 633 d. Mixed beverage limited caterer's license, \$100;
- 634 e. Mixed beverage special events licenses, \$10 for each day of each event;
- 635 f. Mixed beverage club events licenses, \$10 for each day of each event;
- 636 g. Annual mixed beverage amphitheater license, \$300;
- 637 h. Annual mixed beverage motor sports race track license, \$300;
- 638 i. Annual mixed beverage banquet license, \$75;
- 639 j. Limited mixed beverage restaurant license:
- 640 (i) With a seating capacity at tables for up to 100 persons, \$100;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;

(iii) With a seating capacity at tables for more than 150 persons, \$400;

k. Annual mixed beverage motor sports facility license, \$300; and

l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

668 D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on
669 any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
670 wholesaler maintains no place of business in such county, city or town.

671 E. Application of county tax within town. — Any county license tax imposed under this section
672 shall not apply within the limits of any town located in such county, where such town now, or hereafter,
673 imposes a town license tax on the same privilege.

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